

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

<b>MARIO J. PRIMM,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>Case number 4:05cv1295 CAS</b>
	)	<b>TCM</b>
<b>DON ROPER,</b>	)	
	)	
<b>Respondent.</b>	)	

**MEMORANDUM AND ORDER**

Pending in this 28 U.S.C. § 2254 action is the motion of petitioner, Mario J. Primm, for the appointment of counsel. [Doc. 4] In addition to citing a financial inability to retain counsel and unfruitful efforts to find one nonetheless, Petitioner, with a case citation, argues he has neither access to a law library or to a paralegal.

There is no constitutional or statutory right to appointment of counsel in habeas corpus proceedings. See **McCall v. Benson**, 114 F.3d 754, 756 (8th Cir. 1997); **Hoggard v. Purkett**, 29 F.3d 469, 471 (8th Cir. 1994). "[I]nstead, [the appointment of counsel] is committed to the discretion of the trial court." **McCall**, 114 F.3d at 756 (alterations added). Where the issues involved can be properly resolved without an evidentiary hearing, the court does not abuse its discretion in denying a request for appointment of counsel. See **Hoggard**, 29 F.3d at 471.

Petitioner initiated this action with the filing of a thirty-four-page, typed petition cogently raising six grounds for relief from his twenty-five year sentence on twelve felony convictions. His petition includes case citations and references to the record. Respondent has not yet filed his response to an order to show cause why the relief should not be granted.

At this stage of the proceedings, the issues raised in the petition appear to be neither factually nor legally complex and also appear to be appropriate for resolution without an evidentiary hearing. Moreover, the petition clearly demonstrates an ability to articulately and appropriately advocate Petitioner's position. Accordingly,

**IT IS HEREBY ORDERED** that Petitioner's motion for appointment of counsel is **DENIED**. [Doc. 4]

/s/ Thomas C. Mummert, III  
THOMAS C. MUMMERT, III  
UNITED STATES MAGISTRATE JUDGE

Dated this 2nd day of November, 2005.